



FEDERAL ELECTION COMMISSION  
Washington DC 20463

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE # 2102

DATE SCANNED 11/25/09

SCANNER NO. 2

SCAN OPERATOR EEF

29092643505



FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

2009 JUN 18 P 4: 09

June 18, 2009

MEMORANDUM

**SENSITIVE**

TO: THE COMMISSION

THROUGH: ROBERT HICKEY  
STAFF DIRECTOR

FROM: JOHN D. GIBSON  
CHIEF COMPLIANCE OFFICER

PATRICIA CARMONA  
ASSISTANT STAFF DIRECTOR  
REPORTS ANALYSIS DIVISION

BY: NATALIYA IOFFE/RHIANNON MAGRUDER/SARI PICKERALL  
COMPLIANCE BRANCH

SUBJECT: REASON TO BELIEVE RECOMMENDATION – 2009 APRIL MONTHLY  
REPORT FOR THE ADMINISTRATIVE FINE PROGRAM

Attached is the name of political committee and its treasurer who failed to file the 2009 April Monthly Report in accordance with 2 U.S.C. 434(a). The April Monthly Report was due on April 20, 2009.

The committee listed in the attached RTB Circulation Report failed to file the report. In accordance with the schedule of civil money penalties for reports at 11 CFR 111.43, the committee should be assessed the civil money penalty highlighted on the attached circulation report.

**Recommendation**

1. Find reason to believe that the political committee and its treasurer listed on the RTB Circulation Report violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalties would be the amount indicated on the RTB Circulation Report.
2. Send the appropriate letter.

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Reason to Believe Circulation Report

2009 APRIL MONTHLY Not Election Sensitive 04/20/2009 P\_UNAUTH

AF#	Committee ID	Committee Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
2102	C00004606	KANSAS REPUBLICAN PARTY - FEDERAL	STEVE FITZGERALD	\$159,195	0	5/26/2009	Not Filed	\$16,373	\$500

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
RTB Recommendation – 2009 April ) AF 2102  
Monthly Report for the Administrative )  
Fine Program: Kansas Republican Party - )  
Federal and Steve Fitzgerald, treasurer )

CERTIFICATION

I, Mary W. Dove, Secretary of the Federal Election Commission, do hereby  
certify that on June 22, 2009, the Commission decided by a vote of 6-0 to take the  
following actions in AF 2102:

1. Find reason to believe that Kansas Republican Party - Federal and Steve Fitzgerald, treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalties would be in the amount of \$500.00
2. Send the appropriate letter.

Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther and  
Weintraub voted affirmatively for the decision.

Attest:

June 23, 2009  
Date

Mary W. Dove  
Mary W. Dove  
Secretary of the Commission

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

June 26, 2009

Steve Fitzgerald as Treasurer  
Kansas Republican Party - Federal  
2025 S.W. Gage Boulevard  
Topeka, KS 66604

C00004606  
AF#: 2102

Dear Mr. Fitzgerald:

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires that your committee file an April Monthly Report of Receipts and Disbursements covering the period through March 31st. This report shall be filed no later than April 20th. 2 U.S.C. 434(a). Records at the Federal Election Commission ("FEC") indicate that this report was not filed within thirty (30) days of the due date. Because records at the Federal Election Commission ("FEC") indicate that this report was not filed within thirty (30) days of the due date, it is considered not filed for the purpose of calculating the civil money penalty.

The Act was amended in 1999 to permit the FEC to impose civil money penalties for violations of the reporting requirements of 2 U.S.C. § 434(a). 2 U.S.C. § 437g(a)(4). On June 22, 2009, the FEC found that there is reason to believe ("RTB") that Kansas Republican Party - Federal and you as treasurer violated 2 U.S.C. § 434(a) by failing to file timely this report on or before April 20th. Based on the FEC's schedules of civil money penalties at 11 C.F.R. § 111.43, the amount of your civil money penalty calculated at the RTB stage is \$500. Please see the attached copy of the Commission's administrative fine regulations at 11 C.F.R. §§ 111.30-11.46. Attachment 1. The Commission's website contains further information about how the administrative fine program works and how the fines are calculated. See <http://www.fec.gov/af/af.shtml>. 11 C.F.R. § 111.34. Your payment of \$500 is due within forty (40) days of the finding, or by August 1, 2009, and is based on these factors:

Election Sensitivity of Report: Not Election Sensitive  
Level of Activity: \$16,373  
Number of Days Late: Not Filed (for the purpose of calculating the penalty only)  
Number of Previous Civil Money Penalties Assessed: 0

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At this juncture, the following courses of action are available to you:

**1. If You Choose to Challenge the RTB Finding and/or Civil Money Penalty**

If you should decide to challenge the RTB finding and/or calculated civil money penalty, you must submit a written response, including the AF# found at the top of page 1 under your committee's identification number, to the FEC's Office of Administrative Review, 999 E Street, NW, Washington, DC 20463. Your response must be received within forty (40) days of the Commission's RTB finding, or August 1, 2009. 11 C.F.R. § 111.35(a). Your written response must include the reason(s) why you are challenging the RTB finding and/or calculated civil money penalty, and must include the factual basis supporting the reason(s) and supporting documentation. The FEC strongly encourages that documents be submitted in the form of affidavits or declarations. 11 C.F.R. § 111.36(c).

The FEC will only consider challenges that are based on at least one of three grounds: (1) a factual error in the RTB finding; (2) miscalculation of the calculated civil money penalty by the FEC; or (3) your demonstrated use of best efforts to file in a timely manner when prevented from doing so by reasonably unforeseen circumstances that were beyond your control. 11 C.F.R. § 111.35(b). In order for a challenge to be considered on the basis of best efforts, you must have filed the required report no later than 24 hours after the end of these reasonably unforeseen circumstances. *Id.* Examples of circumstances that will be considered reasonably unforeseen and beyond your control include, but are not limited to, (1) a failure of Commission computers or Commission-provided software despite your seeking technical assistance from Commission personnel and resources; (2) a widespread disruption of information transmissions over the Internet that is not caused by a failure of the Commission's or your computer systems or Internet service provider; and (3) severe weather or other disaster-related incident. 11 C.F.R. § 111.35(c). Examples of circumstances that will not be considered reasonably unforeseen and beyond your control include, but are not limited to, (1) negligence; (2) delays caused by vendors or contractors; (3) treasurer and staff illness, inexperience or unavailability; (4) committee computer, software, or Internet service provider failures; (5) failure to know filing dates; and (6) failure to use filing software properly. 11 C.F.R. § 111.35(d).

The "failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver" of your right to present such argument in a petition to the U.S. district court under 2 U.S.C. § 437g. 11 C.F.R. § 111.38.

If you intend to be represented by counsel, please advise the Office of Administrative Review. You should provide, in writing, the name, address and telephone number of your counsel and authorize counsel to receive notifications and communications relating to this challenge and imposition of the calculated civil money penalty.

**2. If You Choose Not to Pay the Civil Money Penalty and Not to Submit a Challenge**

If you do not pay the calculated civil money penalty and do not or submit a written response, the FEC will assume that the preceding factual allegations are true and make a final determination that Kansas Republican Party - Federal and you as treasurer violated 2 U.S.C. § 434(a) and assess a civil money penalty.

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA"), as amended by the Debt Collection

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Improvement Act of 1996, 31 U.S.C. § 3701 *et seq.* The FEC may take any and all appropriate action authorized and required by the DCA, as amended, including transfer to the U.S. Department of the Treasury for collection. 11 C.F.R. § 111.45.

**3. If You Choose to Pay the Civil Money Penalty**

If you should decide to pay the calculated civil money penalty, send the enclosed remittance form, along with your payment, to the FEC at the address on page 4. Upon receipt of your payment, the FEC will send you a final determination letter.

This matter was generated based on information ascertained by the FEC in the normal course of carrying out its supervisory responsibilities. 2 U.S.C. § 437g(a)(2). It will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and 437g(a)(12)(A) until it is placed on the public record in accordance with 11 C.F.R. § 111.42, unless you notify the FEC in writing that you wish the matter to be made public.

As noted earlier, you may obtain additional information on the FEC's administrative fine program, including the final regulations, on the FEC's website at <http://www.fec.gov/af/af.shtml>. If you have questions regarding the payment of the calculated civil money penalty, please contact Rhiannon Magruder in the Reports Analysis Division at our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130. If you have questions regarding the submission of a challenge, please contact the Office of Administrative Review at our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

On behalf of the Commission,



Steven T. Walther  
Chairman

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**ADMINISTRATIVE FINE REMITTANCE & PAYMENT INSTRUCTIONS**

In accordance with the schedule of penalties at 11 C.F.R. § 111.43, the amount of your civil money penalty calculated at RTB is \$500 for the 2009 April Monthly Report.

Please mail this remittance with a check or money order made payable to the Federal Election Commission to the following address:

Federal Election Commission  
P.O. Box 979058  
St. Louis, MO 63197-9000

If you choose to send your remittance and payment by courier or overnight delivery, please use this address:

U.S. Bank - Government Lockbox  
FEC #979058  
1005 Convention Plaza  
Attn: Government Lockbox, SL-MO-C2GL  
St. Louis, MO 63101

The remittance and your payment are due by August 1, 2009. Upon receipt of your remittance and payment, the FEC will send you a final determination letter.

**PAYMENTS BY PERSONAL CHECK**

Personal checks will be converted into electronic funds transfers (EFTS). Your account will be electronically debited for the amount on your check, usually within 24 hours, and the debit will appear on your regular statement. We will destroy your original check and keep a copy of it. In case the EFT cannot be processed for technical reasons, you authorize us to process the copy in lieu of the original check. Should the EFT not be completed because of insufficient funds, we may try to make the transfer twice.

**PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT**  
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FOR: Kansas Republican Party - Federal

FEC ID#: C00004606

AF#: 2102

PAYMENT DUE DATE: August 1, 2009

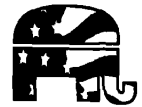
PAYMENT AMOUNT DUE: \$500

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# KANSAS REPUBLICAN PARTY

AMANDA L. ADKINS, CHAIR



July, 14, 2009

FEC Office of Administrative Review  
999 E. East Street NW  
Washington DC 20463

Reference Number: C00004606  
AF# 2102

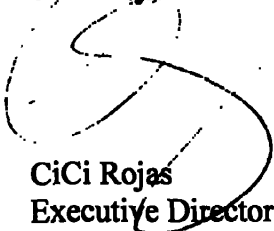
To Whom it May Concern:

I am in receipt of your communication dated June 26, 2009 regarding our late filing of our April 20, 2009 FEC monthly report.

I respectfully request to challenge the action due to transition of new personal, and communication errors regarding updated filing links, which will fall under the number #3 option "your demonstrated use of the best efforts to file in a timely manner when prevented from doing so by reasonably unforeseen circumstances that were beyond your control".

Please communicate our next steps in the process.

Sincerely,

  
CiCi Rojas  
Executive Director

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Via First Class Mail

July 28, 2009

Steve Fitzgerald, as Treasurer  
Kansas Republican Party  
2025 SW Gage Blvd  
Topeka, KS 66604

C00004606  
AF# 2102

Dear Mr. Fitzgerald:

On July 27, 2009, the Commission received a written response ("challenge") from CiCi Rojas, Executive Director, which is being reviewed by the Office of Administrative Review. If you have any questions regarding this challenge, please contact this Office on our toll free number (800)424-9530 (press 0, then ext. 1660) or (202)694-1660.

Sincerely,

A handwritten signature in black ink that reads "Shawn Woodhead Werth". The signature is written in a cursive, flowing style.

Shawn Woodhead Werth  
Reviewing Officer  
Office of Administrative Review

29092643514

**Date: August 3, 2009**

**REFERRAL TO OFFICE OF ADMINISTRATIVE REVIEW  
CHALLENGE RECEIVED**

**AF#: 2102**

**Committee Name: Kansas Republican Party – Federal**

**Committee ID#: C00004606**

**Committee Address (if different than in RTB letter): N/A**

**Treasurer Name (if different than in RTB finding): N/A**

**Attachments:**

**Copy of RTB Circulation Report, dated June 18, 2009 and RTB Certification,  
dated June 23, 2009:**

**Attachment #: 1**

**Certified Return Receipt (Y/N): Y**

**Attachment #: 2**

**Other Relevant Telecoms (Y/N): N**

**Attachment #: N/A**

**Original Correspondence Received by RAD in Response to RTB Letter (Y/N): N**

**Attachment #: N/A**

**RAD Staff Declaration (Y/N): Y**

**-2009 April Monthly Report Prior Notice, dated January 28, 2009.**

**-Non-Filer Notice, dated May 8, 2009**

**-RTB Letter, dated June 26, 2009.**

**Attachment #: 4**

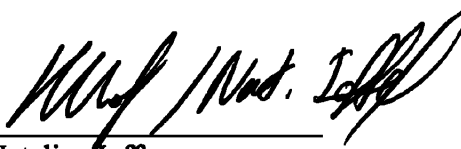
**Other RAD Information: (Y/N): Memo to File, Fax Transmittal**

**Attachment#: 5**

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## DECLARATION OF NATALIYA IOFFE

1. I am the Chief of the Compliance Branch for the Reports Analysis Division of the Federal Election Commission ("Commission"). In my capacity as Chief of the Compliance Branch, I oversee the initial processing of the Administrative Fine Program. I make this declaration based on my personal knowledge and, if called upon as a witness, could and would testify competently to the following matters.
2. I hereby certify that documents identified herein are true and accurate copies of the following sent by the Commission to Kansas Republican Party - Federal:
  - A) Prior Notice, dated January 28, 2009, referencing the 2009 April Monthly Report (sent via electronic mail to: republicanparty@ksgop.org);
  - B) Non-Filer Letter, dated May 8, 2009, referencing the 2009 April Monthly Report;
  - C) Reason-to-Believe Letter, dated June 26, 2009, referencing the 2009 April Monthly Report.
3. I hereby certify that I have searched the Commission's public records and find that Kansas Republican Party - Federal filed the 2009 April Monthly Report with the Commission on May 26, 2009.
4. Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct and that all relevant telecoms for the matter have been provided. This declaration was executed at Washington, D.C. on the 3rd day of August, 2009.

  
Nataliya Ioffe  
Chief, Compliance Branch  
Reports Analysis Division  
Federal Election Commission



# MONTHLY REPORT NOTICE

FEDERAL ELECTION COMMISSION

PARTIES AND PACS

January 28, 2009

## MONTHLY REPORTING SCHEDULE FOR 2009

REPORT	REPORTING PERIOD	REPORTING DEADLINE	REPORTING DEADLINE
February	01/31/09	02/20/09	02/20/09
March	02/28/09	03/20/09	03/20/09
April	03/31/09	04/20/09	04/20/09
May	04/30/09	05/20/09	05/20/09
June	05/31/09	06/20/09	06/20/09 <sup>2</sup>
July	06/30/09	07/20/09	07/20/09
August	07/31/09	08/20/09	08/20/09
September	08/31/09	09/20/09	09/20/09 <sup>1</sup>
October	09/30/09	10/20/09	10/20/09
November	10/31/09	11/20/09	11/20/09
December	11/30/09	12/20/09	12/20/09 <sup>2</sup>
Year-End	12/31/09	01/31/10	01/31/10 <sup>2</sup>

### WHO MUST FILE

All Party Committees and PACs (Nonconnected Committees and Separate Segregated Funds) must file either semiannual or monthly reports in 2009. Before a committee can stop filing with the FEC, it must file a termination report with the Commission. Committees must continue to file reports until the Commission notifies them in writing that their termination report has been accepted. See 11 CFR 102.3.

**PLEASE NOTE:** The Commission provides reminders of upcoming filing dates as a courtesy to help committees comply with the filing deadlines set forth in the Act and Commission regulations. Committee treasurers must comply with all applicable filing deadlines established by law, and the lack of prior notice does not constitute an excuse for failing to comply with any filing deadline.

Supplemental Filing Information is available on page 2 of this notice.

<sup>1</sup> A reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered.

<sup>2</sup> Notice that this filing date falls on a weekend. Filing deadlines are not extended when they fall on nonworking days. Accordingly, reports filed by methods other than Registered, Certified or Overnight Mail, or electronically, must be received before the Commission's (or for committees supporting only Senate candidates, the Secretary of Senate's) close of business on the last business day before the deadline.

## SUPPLEMENTAL FILING INFORMATION

### METHODS OF FILING REPORTS

#### Electronic Filing

Reports filed electronically must be received and validated by the Commission by 11:59 p.m. Eastern Time on the filing deadline.

- Web Page: [Electronic Filing Page](#)
- Campaign Guide: *Nonconnected Committees (Nonconnected)*, pp. 51-53 [PDF]; *Corporations and Labor Organizations (SSF)*, pp. 49-51 [PDF]; *Political Party Committees (Party)*, pp. 67-69 [PDF].

#### Paper Filing – Meeting the Filing Deadline

Paper report filing options – Registered, Certified or Overnight or First Class Mail.

- Web Page: [Link to Paper Forms](#) (for downloading and printing)
- Campaign Guide: *Nonconnected*, pp. 47-48 [PDF]; *SSF*, pp. 45-46 [PDF]; *Party*, p. 63 [PDF].

### COMPLIANCE

#### Treasurer Responsibility

Committee treasurers are responsible for both the timeliness and the accuracy of all reports. They may be subject to monetary penalties if reports are inaccurate or are not filed on time.

- *Statement of Policy Regarding Treasurers Subject to Enforcement Proceeding* [PDF]
- Campaign Guide: *Nonconnected*, pp. 3-4 [PDF]; *SSF*, pp. 1-2 [PDF]; *Party*, p. 6 [PDF].

#### Administrative Fine Program

Failure to file reports on time may be subject to civil money penalties up to \$16,000 (or more for repeat late- and non-filers).

- Web Page: [Administrative Fine Program Page](#)
- Campaign Guide: *Nonconnected*, pp. 48-49 [PDF]; *SSF*, p. 46 [PDF]; *Party*, p. 64 [PDF].

### 48- AND 24-HOUR REPORTS OF INDEPENDENT EXPENDITURES

Any PAC or Party Committee that makes independent expenditures in 2009 may have to disclose this activity within 48- or 24-hours based upon the date and amount of the expenditure.

- Web Page: [2009 special election 48- and 24-hour reporting periods for independent expenditures](#)
- Campaign Guide: *Nonconnected*, pp. 72-74 [PDF]; *SSF*, pp. 65-67 [PDF]; *Party*, pp. 85-87 [PDF].

These reports are not required when a PAC or Party Committee makes a contribution directly to a candidate.

### 2009 REPORTING SCHEDULE

- Web Page: [2009 Reporting Dates Page](#)
- The *Record* January 2009 issue [PDF]
- Campaign Guide: *Nonconnected*, pp. 49-51 [PDF]; *SSF*, pp. 46-48 [PDF]; *Party*, pp. 65-66 [PDF].

### CHANGE IN FILING FREQUENCY

Committees able to change their reporting schedule (for example, from monthly to semiannually) who wish to do so must notify the Commission in writing and may change their filing frequency no more than once per calendar year.

- Web Page: [Filing Frequency by Type of Committee](#)
- Campaign Guide: *Nonconnected*, p. 51 [PDF]; *SSF*, p. 49 [PDF]; *Party*, p. 65 [PDF].

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FOR INFORMATION, CALL: (800) 424-9530 or (202) 694-1100



**FEDERAL ELECTION COMMISSION**  
WASHINGTON, D.C. 20463

May 8, 2009

RQ-7

STEVE FITZGERALD, TREASURER  
KANSAS REPUBLICAN PARTY - FEDERAL  
2025 SW GAGE BOULEVARD  
TOPEKA, KS 66604

IDENTIFICATION NUMBER: C00004606

REFERENCE: APRIL MONTHLY REPORT 3/1/2009 - 3/31/2009

DEAR TREASURER:

IT HAS COME TO THE ATTENTION OF THE FEDERAL ELECTION COMMISSION THAT YOU MAY HAVE FAILED TO FILE THE ABOVE REFERENCED REPORT OF RECEIPTS AND EXPENDITURES AS REQUIRED BY THE FEDERAL ELECTION CAMPAIGN ACT, AS AMENDED.

IT IS IMPORTANT THAT YOU FILE THIS REPORT IMMEDIATELY WITH THE FEDERAL ELECTION COMMISSION, 999 E STREET, N.W., WASHINGTON, D.C., 20463. PLEASE NOTE THAT ELECTRONIC FILERS MUST SUBMIT THEIR REPORTS ELECTRONICALLY, AS PER 11 CFR §104.18. A COPY OF THE REPORT OR RELEVANT PORTIONS MUST ALSO BE FILED WITH THE SECRETARY OF THE STATE OR EQUIVALENT STATE OFFICER UNLESS THE STATE IS EXEMPT FROM THE FEDERAL REQUIREMENT TO RECEIVE AND MAINTAIN PAPER COPIES. YOU CAN VERIFY THE COMMISSION'S RECEIPT OF ANY DOCUMENTS SUBMITTED BY YOUR COMMITTEE ON THE FEC WEBSITE AT [WWW.FEC.GOV](http://WWW.FEC.GOV).

THE FAILURE TO TIMELY FILE THIS REPORT MAY RESULT IN CIVIL MONEY PENALTIES, AN AUDIT OR LEGAL ENFORCEMENT ACTION. THE CIVIL MONEY PENALTY CALCULATION FOR LATE REPORTS DOES NOT INCLUDE A GRACE PERIOD AND BEGINS ON THE DAY FOLLOWING THE DUE DATE FOR THE REPORT. DUE TO HEIGHTENED SECURITY SCREENING MEASURES, DELIVERY OF MAIL BY THE US POSTAL SERVICE MAY BE DELAYED. THE COMMISSION RECOMMENDS THAT YOU SUBMIT YOUR REPORT VIA OVERNIGHT DELIVERY OR COURIER SERVICE.

IF YOU HAVE ANY QUESTIONS REGARDING THIS MATTER, PLEASE CONTACT CHRISTOPHER RITCHIE AT OUR TOLL FREE NUMBER (800)424-9530. OUR DIRECT LOCAL NUMBER IS (202)694-1130.

SINCERELY,

*Patricia Carmona*

PATRICIA CARMONA  
ASSISTANT STAFF DIRECTOR  
REPORTS ANALYSIS DIVISION (RAD)

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FR: COMPLETE THIS SECTION

Complete items 1, 2, and 3. Also complete  
4 if Restricted Delivery is desired.  
your name and address on the reverse  
that we can return the card to you.  
Attach this card to the back of the mailpiece,  
on the front if space permits.

Addressed to:  
Mr. Fitzgerald  
Kansas Republican Party -  
15 S.W. Gage Boulevard  
Topeka, KS 66604

COMPLETE THIS SECTION ON DELIVERY

A. Signature X <i>[Signature]</i>		<input type="checkbox"/> Agent <input type="checkbox"/> Addressee
B. Received by (Printed Name) <i>[Signature]</i>	C. Date of Delivery <i>[Stamp]</i>	
D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below		
3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.		
4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes		

Item Number  
(from service label)  
n 8811, February 2004 Domestic Return Receipt 102595-02-M-1540

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

FEDERAL ELECTION COMMISSION  
SECRETARIAT

2009 AUG -6 P 4: 28

August 6, 2009

**MEMORANDUM**

**SENSITIVE**

To: The Commission

Through: Robert A. Hickey *AP for R.H.*  
Staff Director

From: John D. Gibson *JDG*  
Chief Compliance Officer

Shawn Woodhead Werts *SW*  
Reviewing Officer  
Office of Administrative Review

By: Maureen Benitz *MB*  
Reviewing Analyst

Subject: Reviewing Officer Recommendation in AF# 2102 - Kansas  
Republican Party and Steve Fitzgerald, as Treasurer (C00004606)

The attached Reviewing Officer Recommendation is being circulated on an informational basis. A copy was also sent to the respondents in accordance with 11 C.F.R. § 111.36(f). The respondents may file with the Commission Secretary a written response within 10 days of transmittal of the recommendation.

After the 10 day period, the Reviewing Officer Recommendation and the respondents' written response, if any, will be circulated to the Commission to make a final determination.

Attachment

29092643521



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

August 6, 2009

**REVIEWING OFFICER RECOMMENDATION  
OFFICE OF ADMINISTRATIVE REVIEW ("OAR")**

AF# 2102 – Kansas Republican Party and Steve Fitzgerald, as Treasurer (C00004606)

On June 22, 2009, the Commission found reason to believe ("RTB") that the respondents violated 2 U.S.C. § 434(a) for failing to file the 2009 April Monthly Report and made a preliminary determination that the civil money penalty was \$500 based on the schedule of penalties at 11 C.F.R. § 111.43. They were notified by the Reports Analysis Division ("RAD") on June 26, 2009 of the Commission's RTB finding and civil money penalty.

**Respondents' Response**

On July 27, 2009, the Commission received the written response ("challenge") from Cici Rojas, the Executive Director on behalf of the respondents, challenging the RTB finding and requesting that the Commission take into consideration these two issues. The Committee experienced communication errors due to updated filing links and underwent a transition in personnel. She indicates that they demonstrated their best efforts to file in a timely manner, but were prevented from doing so by these reasonably unforeseen circumstances that were beyond their control.

**Analysis**

The April Monthly Report was filed on May 26, 2009, 36 days late.

The Federal Election Campaign Act ("Act") states that the treasurer of a political committee not authorized by a candidate shall file a report for the period ending March 31 no later than April 20. 2 U.S.C. § 434(a)(4)(B) and 11 C.F.R. § 104.5(c)(3)(i). Reports electronically filed must be received and validated at or before 11:59 pm Eastern Standard/Daylight Time on April 20 to be timely filed. 11 C.F.R. §§ 100.19(c) and 104.5(e). The treasurer shall be personally responsible for the timely filing of reports. 11 C.F.R. § 104.14(d).

The Executive Director asserts that they used their best efforts to file the report on time. The best efforts defense is a two-part test: the respondents used best efforts to file on time but were prevented from doing so by reasonably unforeseen circumstances that were beyond their control and they filed the report no later than 24 hours after the end of these circumstances. 11 C.F.R. § 111.35(b)(3).

The respondents do not explain what they mean by "communication issues due to updated filing links." Based on the Electronic Filing Office ("EFO") logs, Information

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Technology Division ("ITD") Manager's response, and RAD telecoms (written records of telephone conversations), it appears that this refers to their inability to file the report on May 26 until after they downloaded the latest version of the FECFile software.

The EFO logs show that Christian Morgan downloaded the FECFile software on March 20, 2009. A month later, on April 20, the day the report was due, Ms. Rojas called to ask how to get started with electronic filing. She was instructed by the EFO staff on how to obtain a password, told that the FECFile software would need to be downloaded, and to call back if she needed more help. She called back a week later for further help. Another Committee representative called the RAD analyst on May 12, 13 and 14 for help with the FECFile software and the Analyst explained that the FECFile user manual was available on the website. On May 13, the EFO notified the Committee that version 6.4.1.0 of the FECFile software was now available and subsequent reports would have to be filed using this version. The next contact occurred on May 26 when Meghan Morris spoke to the RAD Analyst and EFO staff. When Ms. Morris told the Analyst that the report may not have been properly uploaded, the Analyst transferred her call to the EFO staff who confirmed that the Commission had not received it. He then instructed her to download the updated version of the FECFile software. She did and the report was successfully uploaded.

The ITD Manager says in his response that the EFO has "no records of any attempts by the committee to file the 2009 April Monthly Report prior to May 26, 2009." Had they filed the report anytime before May 14, they would have used the version of the FECFile software which Mr. Morgan downloaded on March 20. Because they did not file it prior to May 14, they had to download the most recently released version of the FECFile software before they could successfully upload the April Monthly Report on May 26. Failure by the respondents to keep their software updated does not fall within the list of valid defenses enumerated at 11 C.F.R. § 111.35(c). In fact, the Committee staff's failure to use filing software properly falls within a list of reasons that will not be considered a valid defense. 11 C.F.R. § 111.35(d)(6). If those working for the Committee had been more proactive and not waited until May 26 to call to inquire whether the report had been received, the report may have been filed earlier.

The respondents also note a transition in personnel at the Committee as a reason the report was not filed on time. Inexperience and unavailability of staff also fall within the list of reasons that will not be considered a valid defense. 11 C.F.R. § 111.35(d)(3). As noted in the ITD Manager's response, the Committee has been an active electronic filer since July 19, 2001.

Neither of their defenses meets the two-part best efforts test. Therefore, the Reviewing Officer recommends that the Commission make a final determination that the respondents violated 2 U.S.C. § 434(a) and assess a civil money penalty of \$500.

29092645525

### **OAR Recommendations**

- (1) Adopt the Reviewing Officer recommendation for AF# 2102 involving the Kansas Republican Party and Steve Fitzgerald, as Treasurer, in making the final determination;
- (2) Make a final determination in AF# 2102 that the Kansas Republican Party and Steve Fitzgerald, as Treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty of \$500; and
- (3) Send the appropriate letters.

**Reviewing Analyst: Maureen Benitz**

### **Attachments**

**Attachment 1 – Challenge Received from Respondents**

**Attachment 2 –**


**Attachment 3 – Declaration from RAD,**

**Attachment 4 – Declaration from OAR**

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**DECLARATION OF MAUREEN BENITZ**

- 1) I am the Reviewing Analyst in the Office of Administrative Review for the Federal Election Commission ("Commission"). In my capacity as Reviewing Analyst, I conduct research with respect to all challenges submitted in accordance with the Administrative Fine program.
- 2) The 2009 April Monthly Report is due April 20, 2009. If electronically filed, it must be received and validated by the Commission at or before 11:59 p.m., Eastern Standard/Daylight Time on April 20 to be timely filed.
- 3) I hereby certify that I have searched the Commission's public records and that the document identified herein is the true and accurate copy of Page 1 of the Summary Page for the 2009 April Monthly Report electronically filed by the Kansas Republican Party and Steve Fitzgerald, as Treasurer. According to Commission records, the report was received on May 26, 2009.
- 4) Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Washington on the 6th of August, 2009.

  
Maureen Benitz  
Reviewing Analyst  
Office of Administrative Review  
Federal Election Commission

29092643525

**FEC  
FORM 3X****REPORT OF RECEIPTS  
AND DISBURSEMENTS**  
For Other Than An Authorized Committee

Office Use Only

1. NAME OF COMMITTEE (in full) **USE FEC MAILING LABEL OR TYPE OR PRINT** Example: If typing, type over the lines

Kansas Republican Party

ADDRESS (number and street)

2025 SW Gage Blvd

Check if different  
than previously  
reported. (ACC)

Topeka

KS

66604

2. FEC IDENTIFICATION NUMBER

C00004606

CITY

STATE

ZIP CODE

3. IS THIS
- 
- REPORT

X

NEW  
(N) ORAMENDED  
(A)

4. TYPE OF REPORT
- 
- (Choose One)

(a) Quarterly Reports:

April 15  
Quarterly Report(Q1)July 15  
Quarterly Report(Q2)October 15  
Quarterly Report(Q3)January 31  
Quarterly Report(YE)July 31 Mid-Year  
Report(Non-election  
Year Only) (MY)Termination Report  
(TER)

- (b) Monthly
- 
- Report
- 
- Due On:

Feb 20 (M2)

May 20 (M5)

Aug 20 (M8)

Nov 20 (M11)  
(Non-Election  
Year Only)

Mar 20 (M3)

Jun 20 (M6)

Sep 20 (M9)

Dec 20 (M12)  
(Non-Election  
Year Only)

X

Apr 20 (M4)

Jul 20 (M7)

Oct 20 (M10)

Jan 31 (YE)

- (c) 12-Day
- 
- PRE-Election
- 
- Report for the:

Primary (12P)

General (12G)

Runoff (12R)

Convention (12C)

Special (12G)

Election on

in the  
State of

- (d) 30-Day
- 
- Post - Election
- 
- Report for the:

General (30G)

Runoff (30R)

Special (30S)

Election on

in the  
State of

5. Covering Period

03

01

2009

through

03

31

2009

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer

Cecilia Rojas

Signature of Treasurer

Electronically Filed by Cecilia Rojas

Date

04

14

2009

NOTE : Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C 437g.

Office  
Use  
Only**FEC FORM 3X**  
(Rev. 12/2004)



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

VIA OVERNIGHT DELIVERY

August 10, 2009

Steve Fitzgerald, as Treasurer  
Kansas Republican Party  
2025 SW Gage Boulevard  
Topeka, Kansas 66604

C00004606  
AF# 2102

Dear Mr. Fitzgerald:

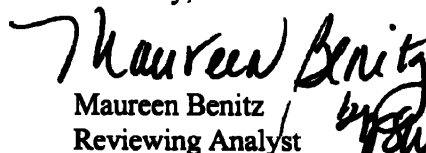
On June 22, 2009, the Federal Election Commission ("Commission") found reason to believe ("RTB") that the Kansas Republican Party and you, as Treasurer ("respondents"), violated 2 U.S.C. § 434(a) for failing to file the 2009 April Monthly Report. The Commission also made a preliminary determination that the civil money penalty was \$500 based on the schedule of penalties at 11 C.F.R. § 111.43.

After reviewing the written response and any supplemental information submitted by you and Commission staff, the Reviewing Officer has recommended that the Commission make a final determination in this matter. A copy of the Reviewing Officer's recommendation is attached.

You may file with the Commission Secretary a written response to the recommendation within 10 days of the date of this letter. Your written response should be sent to the Commission Secretary, 999 E Street, NW, Washington, DC 20463. As a result of the anthrax threat in the Washington, DC area, US Postal Service mail delivery to federal agencies, including the Commission, has been interrupted. Until regular mail delivery resumes, you may also file your written response with the Commission Secretary via facsimile (202-208-3333) or by courier at the same address (if you use an overnight delivery service, please use zip code 20004 instead of zip code 20463). Please include the AF # in your response. Your response may not raise any arguments not raised in your original written response or not directly responsive to the Reviewing Officer's recommendation. 11 C.F.R. § 111.36(f). The Commission will then make a final determination in this matter.

Please contact me at the toll free number 800-424-9530 (press 0, then press 1660) or 202-694-1660 if you have any questions.

Sincerely,

  
Maureen Benitz  
Reviewing Analyst  
Office of Administrative Review

Attachment

29092643527



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

FEDERAL ELECTION COMMISSION  
SECRETARIAT

2009 SEP -4 A 11: 21

September 3, 2009

MEMORANDUM

**SENSITIVE**

To: The Commission

Through: Robert A. Hickey *RF: RH*  
Staff Director

From: John D. Gibson *JDG*  
Chief Compliance Officer

Shawn Woodhead *SW*  
Reviewing Officer  
Office of Administrative Review

By: Maureen Benitz *MB*  
Reviewing Analyst

Subject: Final Determination Recommendation in AF# 2102 - Kansas  
Republican Party and Steve Fitzgerald, as Treasurer (C00004606)

On June 22, 2009, the Commission found reason to believe ("RTB") that the respondents violated 2 U.S.C. § 434(a) for failure to file the 2009 April Monthly Report. The Report was filed on May 26, 2009, and is considered not filed for purposes of the civil money penalty. As a result, on June 22, 2009, the Commission also made a preliminary determination that the civil money penalty was \$500 based on the schedule of penalties at 11 C.F.R. § 111.43.

On July 27, 2009, the Commission received their written response ("challenge"). After reviewing the challenge, the Reviewing Officer's recommendation dated August 6, 2009 was forwarded to the Commission, a copy was forwarded to the respondents, and is hereby incorporated by reference. The Reviewing Officer recommended that the Commission make a final determination that they violated 2 U.S.C. § 434(a) and assess a \$500 civil money penalty because they submitted no evidence that a factual error was made in the RTB finding, that the penalty was miscalculated at RTB or that they used best efforts to file on time. 11 C.F.R. § 111.35(b).

Within 10 days of transmittal of the recommendation, the respondents may file a written response with the Commission Secretary which may not raise any arguments not

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raised in the respondents' challenge or not directly responsive to the Reviewing Officer's recommendation. 11 C.F.R. § 111.36(f). To date, no response has been received.

#### **OAR Recommendations**

- (1) Adopt the Reviewing Officer recommendation for AF# 2102 involving the Kansas Republican Party and Steve Fitzgerald, as Treasurer, in making the final determination;
- (2) Make a final determination in AF# 2102 that the Kansas Republican Party and Steve Fitzgerald, as Treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty of \$500; and
- (3) Send the appropriate letter.

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
Final Determination Recommendation: ) AF 2102  
Kansas Republican Party and Steve )  
Fitzgerald, as Treasurer (C00004606) )

CERTIFICATION

I, Mary W. Dove, Secretary of the Federal Election Commission, do hereby  
certify that on September 17, 2009, the Commission decided by a vote of 6-0 to  
take the following actions in AF 2102:

1. Adopt the Reviewing Officer recommendation for AF 2102 involving the Kansas Republican Party and Steve Fitzgerald, as Treasurer, in making the final determination.
2. Make a final determination in AF 2102 that the Kansas Republican Party and Steve Fitzgerald, as Treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty of \$500.
3. Send the appropriate letter.

Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and  
Weintraub voted affirmatively for the decision.

Attest:

*September 17, 2009*  
Date

*Mary W. Dove*  
Mary W. Dove  
Secretary of the Commission

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

September 24, 2009

VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Steve Fitzgerald, as Treasurer  
Kansas Republican Party  
2025 SW Gage Boulevard  
Topeka, Kansas 66604

C00004606  
AF# 2102

Dear Mr. Fitzgerald:

On June 22, 2009, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that the Kansas Republican Party and you, as Treasurer, violated 2 U.S.C. § 434(a) for failing to file the 2009 April Monthly Report. By letter dated June 26, 2009, the Commission sent you notification of the RTB finding that included a civil money penalty calculated at RTB of \$500 in accordance with the schedule of penalties at 11 C.F.R. § 111.43. On July 27, 2009, the Office of Administrative Review received the written response from Cici Rojas, the Executive Director, challenging the RTB finding.

The Reviewing Officer reviewed the Commission's RTB finding with its supporting documentation and the written response. Based on this review, the Reviewing Officer recommended that the Commission make a final determination that the Kansas Republican Party and you, as Treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty in the amount of \$500 in accordance with 11 C.F.R. § 111.43. The basis for the Reviewing Officer's recommendation was included in the Final Determination Report, a copy of which was sent to you on August 10, 2009.

On September 17, 2009, the Commission adopted the Reviewing Officer's recommendation and made a final determination that the Kansas Republican Party and you, as Treasurer, violated 2 U.S.C. § 434(a) and assessed a civil money penalty of \$500. A copy of the final determination recommendation is attached.

**If You Choose to Appeal the Final Determination and/or Civil Money Penalty**

If you choose to appeal the final determination, you should submit a written petition, within 30 days of receipt of this letter, to the district court of the United States for the district in which the committee or treasurer reside, or transact business, requesting that the final determination be modified or set aside. See 2 U.S.C. § 437g(a)(4)(C)(iii). Your failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver of the respondents' right to present such argument in a petition to the district court under 2 U.S.C. § 437g. 11 C.F.R. § 111.38.

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**If You Choose Not to Pay the Civil Money Penalty and Not to Appeal**

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA") as amended by the Debt Collection Improvement Act of 1996 ("DCIA"), 31 U.S.C. § 3701 et seq. If you do not pay this debt within 30 days (or file a written petition to a federal district court - see below), the Commission will transfer the debt to the U.S. Department of the Treasury ("Treasury") for collection. Within 5 days of the transfer to Treasury, Treasury will contact the debtor and request payment. Treasury currently charges a fee of 28% of the civil money penalty amount for its collection services. The fee will be added to the amount of the civil money penalty that you owe. Should Treasury's attempts fail, Treasury will refer the debt to a private collection agency ("PCA"). If the debt remains unpaid, Treasury may recommend that the Commission refer the matter to the Department of Justice for litigation.

**If You Choose To Pay the Civil Money Penalty**

If you should decide to pay the civil money penalty, send the enclosed form and payment to the address on page 3 within 30 days of receipt of this letter.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. The file will be made a part of the public record pursuant to 11 C.F.R. § 111.42(b). Although the file must be placed on the public record within 30 days from the date of the Commission's notification, this could occur at any time following certification of the Commission's vote.

If you have any questions regarding the payment of the civil money penalty, please contact Maureen Benitz on our toll free number (800)424-9530 (press 0, then ext. 1660) or (202)694-1660.

On behalf of the Commission,



Steven T. Walther  
Chairman

Attachment

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**ADMINISTRATIVE FINE PAYMENT INSTRUCTIONS**

In accordance with the schedule of penalties at 11 C.F.R. § 111.43, the civil money penalty is \$500 for 2009 April Monthly Report.

This penalty should be paid by check or money order, made payable to the Federal Election Commission. It should be sent by mail to:

Federal Election Commission  
PO Box 979058  
St. Louis, MO 63197-9000

If you choose to send your payment by courier or overnight delivery, please use this address:

U.S. Bank - Government Lockbox  
FEC # 979058  
1005 Convention Plaza  
Attn: Government Lockbox, SL-MO-C2GL  
St. Louis, MO 63101

The form and payment are due within 30 days of receipt of this letter.

**PAYMENTS BY PERSONAL CHECK**

Personal checks will be converted into electronic funds transfers (EFTs). Your account will be electronically debited for the amount on the check, usually within 24 hours, and the debit will appear on your regular statement. We will destroy your original check and keep a copy of it. In case the EFT cannot be processed for technical reasons, you authorize us to process the copy in lieu of the original check. Should the EFT not be completed because of insufficient funds, we may try to make the transfer twice.

**PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT**  
-----

FOR: Kansas Republican Party

FEC ID#: C00004606

AF#: 2102

PAYMENT AMOUNT DUE: \$500

FOR: Kansas Republican Party ✓

FEC ID#: C00004606 ✓

AF#: 2102 ✓

PAYMENT AMOUNT DUE: \$500 ✓

10-8

3

QUALITY IS OUR PRIORITY FOR LOCKBOX 9058  
SEQ# 001 \$0000050000 BA# 1 10-14-09 203



**KANSAS REPUBLICAN PARTY**  
FEDERAL OPERATING ACCOUNT  
1005 NW GAGE BLVD. STE 1000 OMAHA, NE 68102-4200  
TEL: 402-342-1234 FAX: 402-342-1235

PAY TO THE ORDER OF Federal Election Commission  
FAR disbursed and 100%

DATE 9/30/09

\$ 500.00  
DOLLARS & CENTS

FOR Penalty for late filing

**The Fidelity Bank**

3467

29092643534

US Bancorp



FEDERAL ELECTION COMMISSION  
Washington DC 20463

THIS IS THE END OF ADMINISTRATIVE FINE CASE # 2102

DATE SCANNED 11/29/09

SCANNER NO. 2

SCAN OPERATOR EES

29092643535